IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14/07/2003

Coram

The Honourable Mr. Justice P.K. MISRA

Writ Petition No.14298 of 1999

Smt. Mariamma .. Petitioner

-Vs-

1. Deputy Labour Commissioner-I,
Teynampet,
Chennai - 6.

2. The Chief Personal Officer,
General Manager Office,
Southern Railway,
Chennai - 3.

3. The Senior Divisional
Personal Officer,
Personal Branch,
Madras Division,
Southern Railway,
Chennai - 3.

4. The Senior Divisional
Accounts Officer,
Madras Division,
Southern Railway,
Chennai - 3. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issue of a Writ of Mandamus as stated therein.

For petitioner: Mr. M.V. Muralidaran

For respondents: Ms. Thenmozhi Shivaperumal,
Additional Government Pleader for R1

Mr. M. Sekar for RR 2 to 4

:O R D E R
Heard the learned counsel appearing for the parties.

2. In this writ petition, the petitioner has prayed for issuing a writ of Mandamus directing the respondents 2 to 4 to pay the compensation amount of Rs.1,97,060/-.

3. There is no dispute that the petitioner is the legal heir of one A. Venkateswarlu who had been, admittedly, working as a sanitary cleaner under the Southern Railway. Subsequently, while he was working, he fell down. Thereafter he was taken to the hospital and it was found that he had died. Request was made to the railway authorities to pay the compensation as the person had died in an accident arising out of and in course of employment. At this stage, the matter was also raised before the Deputy Commissioner of Labour and to a query made by the Deputy Commissioner of Labour, the following reply was made from the Divisional Railway Manger's Office, Personnel Branch, Madras Division, Chennai - 3 on 7.7.1997:

"Shri. A. Venkateswaralu, Sanitary Cleaner under Chief Health Inspector, Royapuram at Chennai was deputed to work at Chennai Central, on 17.3.1997. Shri. Venkateswaralu was booked for after-noon shift. While sweeping the Chennai Central Station Central Hall at 14.30 hours the employee fell down and sustained fatal injury.

The death of the employee had occurred in the course of employment, that is arising out and in the course of employment. Under the circumstances, it has been agreed to accept the liability for the payment of total lump sum compensation in favour of the deceased employee. The average monthly wages of the deceased worked out to Rs.2,395/- but limited to Rs.2,000/- (Rupees two thousand only) and the compensation payable under WCA is worked out to Rs.1,97,060/- (Rupees one lakh ninety seven thousand and sixty only).

Arrangements are being made with the Senior Divisional Accounts Officer of this Division for depositing the same amount to you through a crossed cheque.
This has the approval sanction of the competent authority".

4. In spite of the aforesaid clear admission, indicating that the amount would be paid, no further action was taken, necessitating filing of the present writ petition. A counter affidavit has been filed on behalf of the respondents 2 to 4. In the counter affidavit it has been indicated that, on objection raised by the Accounts Department regarding tenability of the claim, the amount has not been paid.

5. The learned counsel appearing for the respondents 2 to 4 submitted that the death of the person was not on account of an accident arising out of and in course of employment. It has been further submitted that the issuance of letter dated 7.7.1997 was a mistake. Moreover, the petitioner should have filed a claim application before the appropriate Workmen's Compensation Commissioner and the writ petition is not maintainable.

6. In normal circumstance, I would have accepted the contention raised by the learned counsel for the respondents 2 to 4 to the effect that the application under the Workmen's Compensation Act should have been filed. However, in the present case, the respondents, particularly, the

respondents 2 & 3 had admitted to pay the compensation vide letter dated 7.7.1997 addressed to the Deputy Commissioner of Labour and the letter itself indicates that the communication had been issued after obtaining the approval of the competent authority. After having agreed to pay the amount, it was not proper on the part of the respondents to subsequently raise some technical plea regarding the applicability of the Workmen's Compensation Act. Since the letter had been issued by appropriate authority after obtaining permission from the competent authority, no objection should have been raised by the Accounts Section.

7. It is no doubt, true that the competent Forum is prescribed under the Workmen's Compensation Act. However, it is not the intention of the law makers that even in cases where the liability is admitted, the matter has to be taken before a Court of Law. In fitness of things, the respondents should have paid the amount instead of raising technical objection.

P.K. MISRA, J

8. For the aforesaid reasons, the writ petition is allowed and the respondents are directed to pay the amount as indicated in the letter dated 7.7.1997 within a period of two months from the date of communication of the order. It is made clear that if the said amount has not been paid within the aforesaid period of two months, it shall carry interest at the rate of 9% p.a. thereafter. No costs.

Index: yes
Internet: yes

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To

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